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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,414

12/30/2003

Nicholas Edwin

7846

7590

04/19/2006

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EXAMINER

SAN MARTIN, EDGARDO

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/748,414

Applicant(s)

EDWIN, NICHOLAS

Examiner

Edgardo San Martin

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Pro-Se Note***

1. The Examiner notices that the Application does not have a legal representation. The Examiner encourages the Applicant to seek for legal representation to assure a fair and complete understanding of the laws and practices involving patent prosecution. For further assistance, the Applicant can find useful information in our website for

Independent Inventors:

<http://www.uspto.gov/web/offices/com/iip/index.htm>

, and also by calling our Customer Service Department at 800-786-9199 or 800-308-4357.

### ***Claim Objections***

2. Claims 1 – 5 are objected to because of the following informalities:

- In claim 1, the use of the phrase “and/or” render the claim indefinite because it is not clear if the limitations are to be considered in combination or in the alternative;
- In claim 1, line 14, the recitation of “friction free” should be changed to - - friction reduced - - in order to avoid 35 USC 101 issues;
- Claims 1 and 2 should end with an ending period.
- In claim 2, line 1 should read - - in claim 1 - -, instead of “in claim one above”;
- In claim 3, line 1 should read - - in claim 2 - -, instead of “in claim two above”, and - - apparatus - - instead of “mechanism”;

- In claim 4, line 1 should read - - in claim 1 - -, instead of "in claim one above" and - - apparatus - - instead of "device";
- In claim 4, line 2, no negative statement should be use in the claims, the structure which goes to make up the device must be clearly and **positively specified**;
- In claim 5, line 1 should read - - in claim 1 - -, instead of "in claim one above" and - - apparatus - - instead of "mechanism".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5, 7 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not enable for the clear understanding of (With respect to claim 5) provided unregulated variable rotations on its axis from its environment; neither of (With respect to claim 7) how the sound waves will gyrate

sporadically outwards towards its kinetic energy; and neither of (With respect to claim 8) how the sound replicator can gyrate more rapidly through kinetic energy absorbed through the enclosure.

4. Claims 1 – 9 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

5. Claims 1 and 6 - 9 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1 recites the limitation "spherical balls" in line 14. There is insufficient antecedent basis for this limitation in the claim.
- There is insufficient antecedent basis for the limitations in claims 6 - 9.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang (US 5,960,095) in view of Bertram et al. (US 4,015,884).

With respect to claim 1, Chang teaches a speaker (Figs. 2 and 3, Item 20) inserted into an enclosure (figs. 2 and 3, Item 10) wherein the speaker could gyrate around the inner perimeter of the enclosure (Figs.2 and 3; Col.2, Lines 11 – 48), but fails to disclose a bearing bracket that would attach the speaker to the enclosure perimeter.

On the other hand, Bertram et al. teach a bearing bracket comprising an outer circular ring (fig.1, Item 11) having a canalized spherical notch, ball bearings (Fig.1, item 16) residing in the notch, an inner circular ring (Fig.1, Item 10) having a notch that reside inscribed in the circle of the outer ring (Fig.1), the ball bearing being placed between the outer and inner rings (Fig.1), wherein the ball bearings provide a friction reduced environment for gyrating the inner ring.

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the Bertram et al. bearing bracket to attach the Chang speaker to its enclosure because it would facilitate the rotation of the speaker to

a desired position, increasing the performance of the speaker by easily adjusting the directivity of the speaker.

With respect to claims 2 – 9, the examiner considers that the obvious combination Chang and Bertram et al. teach the limitations described in the claims (Chang: Figs.2 and 3; Col.2, Lines 11 – 48, and Bertram et al.: Figs.1 - 4). In addition, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex Parte Masham, 2 USPQ F.2d 1647 (1987).

### ***Conclusion***

7. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

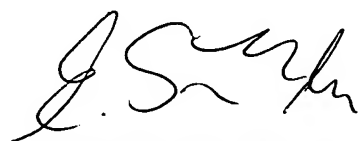
### ***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2800 ext.33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2837

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edgardo San Martín  
Primary Examiner  
Art Unit 2837  
Class 181  
April 15, 2006